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This module should be read in conjunction with the [Introduction](#) and with the [Glossary](#), which contains an explanation of abbreviations and other terms used in this Manual. If reading on-line, click on blue underlined headings to activate hyperlinks to the relevant module.

Purpose

To set out the minimum standards which the HKMA expects Als to adopt in respect of their Codes of Conduct and elements of an effective system for enforcing the Codes

Classification

A statutory guideline issued by the MA under the Banking Ordinance, §7(3)

Previous guidelines superseded

Guideline 3.2 "Code of Conduct" dated 28.11.86

Application

To all Als

Structure

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1. Introduction

1.1 Functions of HKMA

- 1.1.1 The HKMA's primary function under the Banking Ordinance is to promote stability within the Hong Kong banking system. Good and ethical banking practices are essential for

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safeguarding depositors' interests, maintaining the stability of the banking system and preserving Hong Kong's reputation as an international financial centre.

1.1.2 Under §7 of the Banking Ordinance, the MA has the functions, inter alia, to:

- take reasonable steps to ensure that AIs operate in a responsible, honest and business-like manner;
- promote and encourage proper standards of conduct and sound and prudent business practices among AIs; and
- suppress, and aid in suppressing, illegal, dishonourable and improper practices in relation to the business conducted by AIs.

1.1.3 The HKMA believes that it is consistent with these functions to require AIs to promote a sound moral culture within their organisations and to develop a set of ethical standards and values to which their staff are expected to adhere. This can generally be done by means of establishing a Code of Conduct and having a system in place to enforce it.

1.1.4 Every AI is required to submit its Code of Conduct, and any changes thereto, to the HKMA.

1.2 Implications of non-compliance

1.2.1 The minimum authorization criterion under para. 10 of the Seventh Schedule to the Banking Ordinance provides that an AI should have adequate accounting systems and adequate systems of control. Moreover, under para. 12 of the Seventh Schedule, the MA should be satisfied that the business of an AI is carried out with integrity, prudence and the appropriate degree of professional competence and in a manner which is not detrimental to the interests of depositors or potential depositors.

1.2.2 Failure to adhere to the standards and requirements in this module may call into question whether an AI continues to satisfy the above-mentioned criteria.

1.3 Interpretation



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- 1.3.1 In the context of this module, the term “Code of Conduct” refers to a written statement of the standards of behaviour expected by an AI of its management and employees. It normally includes expected standards of behaviour and a detailed set of operating principles and guidelines for staff to follow when they conduct business.
- 1.3.2 The requirements set out in this module should not be read as a substitute for, or as affecting the meaning of, the relevant provisions in the Banking Ordinance or other Ordinances (e.g. §9 of the Prevention of Bribery Ordinance) which are applicable to AIs. In case of doubt, AIs should seek appropriate legal advice or consult with the relevant regulatory bodies.

2. Minimum standards in Code of Conduct

2.1 General

- 2.1.1 Each AI should develop its own Code of Conduct, commensurate with its structure, size and business operations. It is reasonable to expect Codes to differ from one another not only in format but also in content.
- 2.1.2 The Code may be comprehensive, covering all legal, regulatory and ethical issues. Alternatively, different codes may be used to cover different topics. For example, an AI may formulate separate codes or policy statements in relation to the prevention of money laundering, the Code of Banking Practice¹, connected lending, equal opportunities, protection of intellectual property rights, environmental protection issues, etc. AIs may also incorporate extracts from the relevant sections of Ordinances (e.g. §9 of the Prevention of Bribery Ordinance and §124 of the Banking Ordinance) as part of their Code for ease of reference.
- 2.1.3 There are certain minimum conduct requirements which are applicable to every AI and should be included in their main

¹ The Hong Kong Association of Banks and The DTC Association have jointly issued the Code of Banking Practice for the guidance of their members in their daily operations with customers.

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Code. These requirements, although not exhaustive, are set out in the subsections that follow.

2.2 Responsibility

2.2.1 Codes of Conduct should specify the name or title of the officer² (“Code of Conduct officer”) who is responsible for:


- handling queries from staff regarding the contents of the Code and any related matters;
- approving requests by staff to accept personal benefits exceeding limits imposed, or otherwise outside acceptable limits, in the Code (see subsection 2.8 below); and
- taking appropriate actions to follow up cases reported by staff (see subsection 2.12 below).

These functions may be assigned to the same or separate officers. The person(s) appointed should be of sufficient competence, experience, integrity and seniority to discharge them effectively. If an AI decides to appoint more than one person to be responsible for the above functions, the AI should appoint one of them as a central reference point for external liaison.

2.2.2 Normally, the officer responsible for approving the acceptance of personal benefits should have authority to:

- permit a staff member to accept a personal benefit unconditionally or subject to such conditions as the officer may specify;
- require a staff member to refuse the offer of a personal benefit or to return a personal benefit to its donor;
- require a staff member to give a personal benefit which he has received to a charitable organisation nominated by the staff member and acceptable to the officer; or

² The person may be an AI’s compliance officer, an internal legal counsel or some other party (e.g. head of human resources).

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- require a staff member to dispose of a personal benefit which he has received in such manner as the officer may direct.

2.2.3 Where appropriate, Als may appoint a committee to oversee the implementation of and adherence to the Code.

2.3 Ethical values

2.3.1 Codes of Conduct should contain a set of ethical values that Als expect their staff to follow in conducting business. Core ethical values would normally include honesty, integrity, diligence, fairness, responsible citizenship and accountability.

2.3.2 Such values should be consistently applied to avoid confusion to staff.

2.4 Conflicts of interest

2.4.1 All staff should avoid situations that may lead to or involve a conflict of interest, actual or potential and, in case of doubt, should seek the advice of the Code of Conduct officer.

2.5 Granting credit

2.5.1 All staff with lending authority should have specified limits that are commensurate with their rank or function as laid down in the Al's credit policy. No member of staff should grant credit to himself, his relatives³ or companies in which he or his relatives have a personal interest.

2.6 Receiving credit

2.6.1 No member of staff, or his relatives, should borrow or receive credit from third parties on a favoured basis or on terms other than at arm's length unless previously approved in accordance with the Code of Conduct.

2.7 Conduct when obtaining business

³ Als may define the term of "relatives" in the same way as in §79(1) of the Banking Ordinance (see para. 2.1.2 of [CR-G-9](#) "Connected Lending" for details).



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2.7.1 No member of staff should offer any bribe or similar consideration to any person or company in order to obtain business for the AI.

2.8 Personal benefits

2.8.1 Members of staff should not use the power or authority deriving from their position to gain, or to influence other staff to take any action in order to gain, a personal benefit or an indirect benefit (e.g. for their relatives or other related parties).

2.8.2 All staff should observe the statutory provisions of §9 of the Prevention of Bribery Ordinance and §124 of the Banking Ordinance, which contain criminal penalties for accepting advantages in prescribed circumstances.


2.8.3 Members of staff should actively discourage customers from offering personal benefits of any kind, including any type of gift, favour, service, loan, fee or anything of monetary value.

2.8.4 No member of staff should solicit, accept and retain personal benefits from any customer of the AI or any individual or organisation doing or seeking to do business with it. Members of staff may, however, be permitted to accept and retain a personal benefit within the AI's acceptance criteria⁴ set out in the Code of Conduct provided that:

- this complies with relevant legal requirements; and

⁴ For illustration, these may include:

- any normal business entertainment (e.g. a meal involving no more than ordinary amenities). AIs should, however, require their staff to avoid meals or entertainment that are excessive in nature or frequency, so as not to cause embarrassment or loss of objectivity when conducting business. If it is not appropriate to decline an invitation, staff should only accept the invitation with management's permission on the understanding that they are able to reciprocate;
- any gift (including a lai see) given on festive occasions under customary practice, subject to a limit that should not be excessive and, in the judgement of AIs' management, the acceptance of such gifts would unlikely place their staff in a potential position of obligation to the donor;
- any personal benefit arising from kinship or marriage; or
- any personal benefit received from a close personal friend, where such friendship is entirely unrelated to the business of the AI, subject to an appropriate limit.

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- there is no reasonable likelihood of improper influence or prejudice on the performance of duties by the staff member on behalf of the AI.

2.8.5 Where a staff member wishes to accept a personal benefit which is not within the criteria set out in the Code, he should be required to seek the approval of the Code of Conduct officer, providing him with relevant information in writing such as:

- the name of the donor;
- a description and, to the extent possible, an assessment of the value of the benefit;
- any business connection between the donor and the AI; and
- any personal relationship between the staff member and the donor.


2.8.6 The staff member will then be advised whether the gift may be accepted, or should be returned to the donor or disposed of in some other way.

2.9 Use of information

2.9.1 All staff should handle carefully information relating to customers in compliance with relevant statutory requirements, e.g. the Personal Data (Privacy) Ordinance (“PDPO”), and common law customer confidentiality.

2.9.2 No member of staff should release customer information to a third party (see [SA-2](#) “Outsourcing” for guidance in relation to outsourcing arrangements) without written consent from the relevant customer, unless the release complies with the PDPO or he is required or permitted to do so by law.

2.9.3 No member of staff should, during or after termination of his employment with the AI, except in the proper course of his duties or with the written consent of the AI, divulge or make use of any secrets or of any correspondence, accounts, connections or dealings of the AI or its customers or of any

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knowledge gained in relation thereto during his employment.

2.9.4 No member of staff should use information so obtained for financial gain in any way.

2.10 Personal investments

2.10.1 No member of staff should deal in the shares or other securities of any listed company when possessing privileged or price-sensitive information that is not generally known to the shareholders of that company and to the public. Staff should not disclose such information to any third party.

2.10.2 Staff should immediately notify the AI in writing of the details of any dealings in which they may have inadvertently been concerned in the shares or other securities of any listed companies of which they possess privileged or price-sensitive information. If members of staff are unsure whether a deal would constitute insider dealing⁵ they should consult the appropriate officer in advance of such dealing.

2.11 Outside employment


2.11.1 No member of staff should take up any directorship, employment or part-time commercial duties, whether paid or unpaid, outside the AI except with prior written approval as required by the Code of Conduct.

2.11.2 Approval should only be given where the interests of the AI would not be prejudiced.

2.12 Reporting responsibility

2.12.1 It is the responsibility of all staff to contribute to the good reputation of an AI. All staff should be alert to matters

⁵ Basically, insider dealing takes place when a person connected with a listed company possesses privileged information which could affect the share price when disclosed, and trades, or procures other persons to trade, in the securities or derivatives of the company so as to make profits or avoid losses before the public are aware of the piece of information. It also takes place when a person obtains information through another person whom he knows is connected with a listed company (i.e. an insider), trades or procures other persons to trade in the securities or derivatives of the company.

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which could give rise to fraud, deception, theft, forgery, corruption or other illegal activities. If a staff member, acting reasonably, suspects that an illegal activity is being perpetuated, he should immediately report it to an appropriate officer as required in the Code of Conduct for appropriate follow up.

2.12.2 Staff should be warned that failure to report such activity immediately may result in disciplinary action.

2.13 Disciplinary action

2.13.1 Codes of Conduct should specify that all staff of the AI are subject to their provisions and that any breach will give rise to disciplinary action (e.g. verbal warning, issue of a warning letter, demotion or dismissal) and, where applicable, to criminal prosecution.

3. System for enforcing Code of Conduct


3.1 Oversight by Board of Directors

3.1.1 The Board of Directors has an important role in establishing the overall ethical culture of AIs and ensuring AIs conduct their affairs with a high degree of integrity (see section 2 of [CG-1](#) “Corporate Governance of Locally Incorporated Authorized Institutions” for details).

3.1.2 For instance, the Board (or a committee with delegated authority) is responsible for:

- laying down company-wide ethical standards and promoting them to all levels of staff;
- approving the Code of Conduct;
- ensuring that AIs have adequate systems to enforce the Code;
- resolving complex ethical dilemmas; and
- ensuring that the reputation risk of AIs is carefully managed.

3.2 Board and management support

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3.2.1 The values held and attitudes demonstrated by the Board and management have a great influence on the behaviour of the employees. Als' directors and management should demonstrate their full support for the Code of Conduct and serve as role models for compliance.

3.3 Communication to staff

3.3.1 Enforcing a Code of Conduct requires understanding and active participation by all levels of staff in an AI. Als should therefore communicate clearly to their staff the standards and requirements set out in the Code, and in particular, that:

- strict adherence to those standards is expected of them; and
- disciplinary action may be taken against them if they do not adhere to those standards (see also para. 2.13.1 above).

3.3.2 It is important that staff are reminded at periodic intervals of the requirements of the Code. Apart from the use of internal circulars, Als should develop training programmes (e.g. forming part of the induction course for new recruits and of refresher courses for existing staff) for various levels of their staff in relation to the Code or other relevant ethical issues.


3.4 Regular review

3.4.1 The Code should be reviewed periodically by the Board of Directors or a committee with delegated authority and updated to keep abreast of changes in the business environment and regulatory requirements.

3.5 Segregation of conflicting responsibilities

3.5.1 Staff should not be assigned conflicting responsibilities that may make them susceptible to abuses or result in undetected errors.

3.5.2 Als should establish "Chinese Walls" (i.e. functional segregation reinforced by physical separation) to prevent

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the accidental communication of confidential information between departments of the same AI.


- 3.5.3 Access rights to confidential information should only be granted to staff for legitimate business purposes on a need-to-know basis.

3.6 Written records of personal benefits

- 3.6.1 AIs should maintain a written record of all personal benefits received by staff which they have been permitted to retain. This record need not cover benefits which the Code of Conduct permits staff to accept or retain without further reference.
- 3.6.2 Such records should be subject to periodic reviews by the senior management or a designated staff member (e.g. the compliance officer) to ensure that:
- they are properly maintained;
 - the approvals given to staff to retain personal benefits are justified; and
 - there is no likelihood that the staff receiving personal benefits have been placed in a position of obligation.
- 3.6.3 Upon request by the HKMA, such records should be made available to it for review. The AI's document retention policy should take account of all relevant legislation.

3.7 Reporting channels

- 3.7.1 Staff should be encouraged to report matters which could give rise to fraud, deception, theft, forgery, corruption or other illegal activities to the Code of Conduct officer through their internal complaint channels.
- 3.7.2 Complaints should be dealt with quickly and disciplinary action should be taken if necessary. The outcome of investigations into complaints of a serious nature should be reported to senior management.
- 3.7.3 AIs should also report the matters specified in para. 3.7.1 above to the HKMA and other relevant regulatory (e.g. the

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Securities and Futures Commission) or law enforcement authorities as soon as practicable.

3.8 Audit

- 3.8.1 Compliance audits should be regularly performed to assess the effectiveness of the systems required by the Code of Conduct.
- 3.8.2 The findings of these audits should be reported to the Board of Directors or the Audit Committee on a timely basis and appropriate remedial action should be taken to address any concerns or weaknesses raised.

3.9 Assistance from law enforcement and regulatory authorities

- 3.9.1 Where necessary, Als may seek the assistance of the HKMA or other law enforcement or regulatory authorities in relation to their Code of Conduct and other ethical issues.
- 3.9.2 For instance, Als may approach the regional offices of the Independent Commission against Corruption (“ICAC”) or the Hong Kong Ethics Development Centre under the ICAC’s Community Relations Department for assistance in developing ethics programmes catering to their specific needs. These may include:
 - formulating or improving a Code of Conduct and offering advice on how to implement the Code effectively;
 - strengthening system of controls and work procedures to prevent corruption, fraud and other malpractices; and
 - providing training courses for various levels of staff on subjects, such as legislation governing corruption and fraud in Hong Kong, measures to manage staff integrity and skills to handle ethical dilemmas at work.
- 3.9.3 Als may also seek advice on corruption prevention from the Advisory Services Group of the Corruption Prevention Department of the ICAC. The hotline number of the Group is 2526-6363.



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